

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELEANOR ("RONNIE") BEHRINGER,

Plaintiff,

-against-

LAVELLE SCHOOL FOR THE BLIND and
FRANK SIMPSON,

Defendants.

Civil Action No.: 08-4899 (JGK-THK)

**NOTICE OF DEFENDANTS' OMNIBUS
MOTION *IN LIMINE* TO EXCLUDE
PROPOSED EXHIBITS AND WITNESSES**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Jean Y. Park, Esq., dated March 15, 2011, and the exhibits attached thereto, the accompanying Affidavit of W. Frank Simpson, sworn to on March 15, 2011, and the accompanying Memorandum of Law, Defendants, Lavelle School for the Blind and Frank Simpson, will move this Court in Courtroom 12B of the United States Courthouse, 500 Pearl Street, New York, New York, at a date and time to be determined by the Court, for:

1. An Order, pursuant to Rules 502(b) of the Federal Rules of Evidence ("FRE"), excluding the introduction of any privileged communications between Simpson and Vincent D'Andrea, Esq., Lavelle's labor attorney during the relevant time period, including plaintiff's proposed trial exhibit no. 41, which are Mr. D'Andrea's time sheets for legal work performed for Lavelle.
2. An Order, pursuant to FRE 401, 402, 403 and 602, excluding any testimony of certain of plaintiff's former co-workers on the grounds that they lack any personal knowledge of Simpson's acts of alleged retaliation and discrimination, which according to plaintiff, began only *after* December 15, 2005. These individuals include Sister Louis Marie Baxter, Sister Angelus Healy, Robert Cerpa, Ph.D., and Warren Sayre. Plaintiff has designated all of these individuals as witnesses she intends to call during her case-in-chief. Defendants

request, moreover, that this Court exclude from introduction all related documentary exhibits from these individuals, including plaintiff's proposed exhibit nos. 66 (Cerpa Affidavit) and 68 (Sayre Affidavit), pursuant to FRE 802.

3. An Order, pursuant to FRE 402 and 403, excluding any evidence concerning plaintiff's father's medical condition or death in February 2006.

4. An Order, pursuant to FRE 402, excluding evidence of plaintiff's work performance prior to Simpson's June 1, 2001 hire as Lavelle's Superintendent on the grounds that such evidence is irrelevant.

5. An Order, pursuant to FRE 401, 403, 608 and 701, excluding evidence concerning Simpson's alleged alcoholism.

6. An Order precluding plaintiff from introducing proposed trial exhibit 29, which purports to comprise plaintiff's records of treatment from Silver Hill on the grounds that plaintiff waived any rights to use such documentation after refusing to provide Defendants with authorizations for the release of the same during discovery.

Dated: New York, New York
March 15, 2011

KELLEY DRYE & WARREN LLP

By: 

Jean Y. Park
101 Park Avenue
New York, New York 10178
Tel. (212) 808-5019
E-mail: jpark@kelleydrye.com
Attorneys for Defendants

To: Kenneth Andrew Goldberg, Esq.
GOLDBERG & FLIEGEL LLP
60 East 42nd Street, Suite 3421
New York, New York 10165
Tel. (212) 983-1077
E-mail: kgldbrg@aol.com
Attorneys for Plaintiff

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101 PARK AVENUE
NEW YORK, NEW YORK 10178

(212) 808- 7800